

SENATE BILL 704

By Yager

AN ACT to amend Tennessee Code Annotated, Title 56;
Title 68 and Title 71, relative to an assessment on
ground ambulance service providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, is amended by adding
the following as a new part:

71-5-2801.

This part shall be known and may be cited as the “Ground Ambulance Service
Provider Assessment Act.”

71-5-2802.

As used in this part:

(1) “Ambulance service” means ground ambulance service as defined in the
Medicare Benefit Policy Manual Chapter 10 - Ambulance Services item 30.1.1 - Ground
Ambulance Services;

(2) “Assessment” means the medicaid ambulance provider assessment
established by this part;

(3) “Bureau” means the bureau of TennCare;

(4) “Commissioner” means the commissioner of finance and administration.

(5) “Division” means the division of emergency medical services of the
department of health; and

(6) “Non-federal portion” means the non-federal share the bureau needs to fund
amounts that will support fee-for-service ambulance provider rates, as described in § 71-
5-2805.

71-5-2803.

- (a) An ambulance service shall pay an assessment to the bureau:
 - (1) In accordance with this part;
 - (2) In the amount designated in § 71-5-2804;
 - (3) Quarterly, on a day determined by the division by rule made in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and
 - (4) No more than thirty (30) business days after the day on which the division issues the ambulance service notice of the assessment.
- (b) The bureau shall:
 - (1) Determine, by rule, the standards and procedures used to implement and enforce this part;
 - (2) Collect the assessment described in subsection (a); and
 - (3) Transfer assessment proceeds to the state treasurer for deposit into the ambulance service assessment revenue fund created in § 71-5-2807.

71-5-2804.

- (a) The bureau shall calculate a uniform assessment per ground transport pursuant to subsection (b).
- (b) The assessment due from a given ambulance service equals the non-federal portion divided by total state-wide ground transports, multiplied by the number of ground transports for the ambulance service provider.
- (c) The bureau shall apply any annual changes to the assessment rate, calculated as described in subsection (b), uniformly to all assessed ambulance services.
- (d) The assessment shall not generate more than the sum of:
 - (1) An annual amount of twenty thousand dollars (\$20,000) to offset medicaid administration expenses; and
 - (2) The non-federal portion.

(e)

(1) For each state fiscal year, the bureau shall calculate total ground transports using data from the division as follows:

(A) For the state fiscal year beginning July 1, 2017, the bureau shall use ambulance service transport data for the 2016 calendar year; and

(B) For each state fiscal year after the 2017-2018 fiscal year, the bureau shall use ambulance service transport data for the calendar year ending eighteen (18) months before the end of the respective fiscal year.

(2) No more than one hundred eighty (180) days after the end of each calendar year, each ambulance service shall submit transport information to the division. If an ambulance service fails to submit transport information to the division, the division may audit the ambulance service to determine the ambulance service's transports for a given period.

71-5-2805.

Upon approval by the centers for medicare and medicaid services of the assessment imposed by this chapter for fee-for-service rates effective on or after July 1, 2017, the bureau shall reimburse each ambulance service that provided qualifying ground ambulance service transports during the relevant assessment period in an amount not to exceed the emergency medical services ambulance rates adopted annually by the department.

71-5-2806.

The bureau shall require an ambulance service that fails to pay an assessment due under this part to pay the bureau, in addition to the assessment, a penalty

determined by the division by rule promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

71-5-2807.

(a) There is created a special agency account in the state general fund to be known as the “ambulance service assessment revenue fund,” referred to in this part as the “fund.”

(b) Unless otherwise specified in this part, revenue generated from the following sources shall be deposited in the fund:

- (1) Assessments collected by the bureau under this part;
- (2) Penalties collected by the bureau under this part;
- (3) Donations to the fund from private sources; and
- (4) Appropriations by the general assembly.

(c) Any fund balance remaining unexpended at the end of a fiscal year carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(d) Interest accruing on investments and deposits of the fund carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(e) The state treasurer shall invest the moneys in the fund in accordance with the provisions of § 9-4-603. The division shall administer the funds.

(f) Moneys in the fund shall not be diverted to the general fund or any other public fund, and moneys in the fund may only be used to:

- (1) Support fee-for-service rates for ground ambulance services;
- (2) Reimburse money to an ambulance service that is erroneously collected by the bureau from the ambulance service under this part; or

(3) Reimburse the bureau in the amount designated in § 71-5-2804(d)(1) for the purpose of administrative expenses.

(g) In the event that this part is rendered invalid and void:

(1) To the extent federal matching is not reduced due to the impermissibility of the assessments, the division shall disburse pursuant to subsection (f) the moneys remaining in the fund that were derived from assessments imposed by this part and deposited before the occurrence of the invalidating event; and

(2) Following disbursement of moneys in the fund pursuant to subdivision (g)(1), the division shall refund any remaining moneys to each ambulance service provider in proportion to the amount paid by the respective provider during the most recently completed quarterly payment period.

71-5-2808.

(a) The assessment in this part shall not be implemented until after the commissioner receives notice from the centers for medicare and medicaid services that federal matching fund approval for the assessment is granted.

(b) The commissioner shall implement this part to the extent that it is not inconsistent with the TennCare II federal waiver or any successor federal waiver.

(c) Within ninety (90) days after the date this part becomes law, the commissioner shall determine whether an amendment to the TennCare II waiver or any successor federal waiver is required to implement this part. If the commissioner determines that an amendment to the TennCare II federal waiver or any successor federal waiver is necessary, the commissioner is authorized to seek any necessary waiver amendment and the assessment in this part shall not take effect until the waiver amendment is approved.

71-5-2809.

The commissioner is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. The commissioner of finance and administration shall notify the code commission when notice of federal matching fund approval is received from the centers for medicare and medicaid services.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then all provisions and applications of this act shall be invalid and void.

SECTION 4. For the purpose of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2017, the public welfare requiring it.